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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91233690
Party	Defendant Lemorande, Rusty Ralph
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Submission	Answer
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

IMAGE TEN, INC.

Opposer

Opposition No. 91233690

v.

RUSTY RALPH LEMORANDE,

Applicant

ANSWER

Applicant, Rusty Ralph Lemorande, a can individual and resident of the State of California (“Applicant”) hereby answers the allegations made by Image Ten, Inc. (“Opposer”) in its Opposition dated March 29, 2017.

1. Applicant is without sufficient information to form a belief as to the averments in Paragraph 1.

2. Applicant is without sufficient information to form a belief as to the averments in Paragraph 2.

3. Applicant is without sufficient information to form a belief as to the averments in Paragraph 3.

4. Applicant is without sufficient information to form a belief as to the averments in Paragraph 4.

5. Applicant is without sufficient information to form a belief as to the averments in Paragraph 5.

6. Applicant is without sufficient information to form a belief as to the averments in Paragraph 6, but notes that Magic Hat Brewing Company owns registration 3232689 for NIGHT OF THE LIVING DEAD and appears unrelated to Opposer.

7. Applicant is without sufficient information to form a belief as to the averments in Paragraph 7.

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1 8. Applicant is without sufficient information to form a belief as to the averments in
2 Paragraph 8.

3 9. Applicant is without sufficient information to form a belief as to the averments in
4 Paragraph 9.

5 10. Applicant admits Applicant has filed application 87/090468 and Opposer has filed
6 an opposition action opposing registration of application 87/090468 as set forth in Paragraph 10.

7 11. Applicant admits Applicant filed application 87/090468 under Section 1(b) of the
8 Trademark Act, Applicant lacks sufficient knowledge to know Opposer's information and beliefs
9 as asserted in Paragraph 11.

10 12. Applicant is without sufficient information to whether Opposer has rights in the
11 mark NIGHT OF THE LIVING DEAD, and if so, where such common law rights exist and from
12 what time period they exist as claimed in Paragraph 12.

13 13. Applicant is without sufficient information to form a belief as to the averments in
14 Paragraph 13 as Applicant has no information regarding Opposer's marks.

15 14. Applicant is without sufficient information to form a belief as to the averments in
16 Paragraph 14 as Applicant has no information regarding Opposer's marks.

17 15. Applicant is without sufficient information to form a belief as to the averments in
18 Paragraph 15 as Applicant has no information regarding Opposer's marks or uses.

19 16. Applicant is without sufficient information to form a belief as to the averments in
20 Paragraph 16 as Applicant has no information regarding Opposer's marks or channels of trade in
21 which Opposer provides goods or services.

22 17. Applicant is without sufficient information to form a belief as to the averments in
23 Paragraph 17 as Applicant has no information regarding Opposer's marks.

24 18. Applicant is without sufficient information to form a belief as to the averments in
25 Paragraph 18 as Applicant has no information regarding Opposer's marks or any goodwill
26 associated with Opposer's claimed marks.

27 WHEREFORE, Opposer's grounds for opposition are not supported by fact, and there is
28

1 no likelihood that the registration of Applicant's application Serial No. 87/090468 ("Applicant's
2 Mark"), would create confusion with any registered marks of Opponent. Applicant prays that
3 Opposer be denied its requested relief and that Applicant's Mark be allowed to proceed toward
4 registration upon Applicant's sufficient demonstration of the use of its mark in commerce.

5 Dated this 8th day of May, 2017

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7 By: /Rusty Ralph Lemorande/
8 Rusty Ralph Lemorande
9 Applicant
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Certificate of Service

A copy of the foregoing Answer was served by email and first class mail, postage prepaid, upon Farah P. Bhatti, ad Michael Meeks attorneys for Opposer, at Buchaltre Nemer 18400 Von Karman Ave., Suite 800, Irvine, CA 92612, this 8 day of _May_, 2017.

/Rusty Ralph Lemorande/
Rusty Ralph Lemorande